IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIRST DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

And
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NO : 2294 of 2005

Between:

Sk. Jeelani Basha, s/o Sk.Masoom Saheb,
TGP Circle, Nellore, I & CAD Dept., R/o Flat No.103,
Kartik Apartments, Nellore.

..... PETITIONER

AND

1. Secretary to Government, I & CAD Department,

Secretariat, Hyderabad.
2. Engineer-in-Chief (Admn.) I & CAD Dept., Erramanzil, Hyderabad.

.....RESPONDENT(S)

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction, more particularly one in the nature of *Writ of Mandamus*, declaring the order dt.09/12/2004 in O.A.No.2882/1998 on the file of Hon'ble APAT as illegal and invalid and consequently set aside the said order dt.09-12-2004 and declare that the petitioner is entitled to claim absolute preference as post graduate in the matter of promotions to the post of Deputy Executive Engineer duly showing my placement on the top of the panel for the year 1980-81 with all other consequential benefits monetary and otherwise and to grant such other relief or reliefs as this Hon'ble Court deems fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.T.BAPUJI RAO

Counsel for the Respondents: GP FOR IRRIGATION & COMM AREA DEV.

The Court made the following:

ORDER: (Per Hon'ble Sri Justice G. Bikshapahty)

The writ petition is filed, assailing the order passed by the A.P. Administrative Tribunal in O.A. No.2882 of 1998 dated 09.12.2004.

2. The petitioner was applicant before the Tribunal and laid the claim in O.A. seeking to set aside the memo issued by the Government in G.O. Ms. No.14197/Services-IV/1/94-6, Dated 18.06.1997 as discriminatory and arbitrary and being in contravention of the judgment of the High Court and Supreme Court of India and a consequential direction to the respondents to promote the applicant as Deputy Executive Engineer with effect from 1980. The Tribunal dismissed the said O.A. by an order dated 09.12.2004. Aggrieved by the said order, the present writ petition is filed.

3. The learned counsel appearing for the petitioner submits that the learned Tribunal has not been properly considered the limitation aspect. In fact, the O.A. was filed before the Tribunal within time. Even the petitioner had to wait for the judgment of the Supreme Court, which was pronounced in 1992, and hence, he cannot be mulcted with laches and the Tribunal ought not to have dismissed the O.A.

3. We are afraid we cannot accept this aspect. The Tribunal has thoroughly discussed about the said aspect in para-7 and 8 of the order, which is extracted below:

> "It is not in dispute that the applicant was given promotion as DEE in the year 1984. If it is the case of the applicant that the applicant should have been included in the panel for the year 1980 instead of 1984 he should have taken

appropriate steps for redressal of his grievance within a reasonable time. It is also to be noted that the Apex Court had also resolved the dispute in its judgment, dated 3.2.1993 in C. As Nos.1710/90 and 1011-1024/92. Therefore, even if the applicant had waited for the final verdict of the Apex Court, the applicant should have moved in the matter within a reasonable time from the date on which the Apex Court had rendered its decision in C. As Nos.1710/90 and 1011-1024/92. The applicant had approached the Tribunal for applying the ratio of the judgment of the Apex Court after lapse of nearly 5 years. There are thus, delays and laches on the part of the applicant in seeking relief as far as his claim relating to giving him promotion as DEE w.e.f. 1980 is concerned. It is also to be noted that the learned counsel for the applicant had also stated in the course of arguments that he is not pressing for relief in regard to his notional promotion w.e.f.1980. Therefore, no relief can be given to the applicant in regard to his claim for notional promotion w.e.f.1980.

As regards the contention on behalf of the applicant that the name of the applicant should be placed at the top of the panel for the year 1983-84, it is to be noted that the qualifying date for preparation of the panel for the year 1983-84 is 1.9.1983. It is not in dispute that note 1 to Rule 4 of the A.P. Engineering Service Rules were amended through G.O. Ms. No. 180, Irrigation, dated 29.4.1983. Therefore as on 1.9.1983 the rules as applicable on that day i.e. Rules in G.O. Ms.No.180, Irrigation, dated 29.4.1983 have to be followed. In terms of the above rules, the applicant can claim for inclusion in the panel against 9th slot meant for postgraduate degree holders. The applicant cannot claim for inclusion of his name in the panel for the year 1983-84 at the top of the panel based on a pre-amended rule. It is also to be noted that there is inordinate delay of 14 years on the part of the applicant in approaching the Tribunal seeking the above relief. Thus, both on the grounds of delay and laches and on merits, the applicant is not entitled for any relief regarding his placement at the top of panel for the year 1983-84. There are, thus, no merits in the O.A. The O.A. is liable to be dismissed and it is accordingly dismissed. No costs."

4 . Thus, we find the unexplained laches on the part of the petitioner in approaching the Tribunal are writ at large. We do not find any ground to interfere with the order.

5. Accordingly, we dismiss the writ petition. No costs.

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(G. BIKSHAPATHY, J)

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(P.S. NARAYANA, J)

Date: 01.03.2005

Ksn

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. Secretary to Government, I & CAD Department,

Secretariat, Hyderabad.
2. Engineer-in-Chief (Admn.) I & CAD Dept., Erramanzil, Hyderabad.

3. The Assistant Registrar, A.P. Administrative Tribunal, Hyderabad.

4. 2 CD copies

5. 1 CC to MR.BAPUJI RAO

6. 2 CCs to G.P. for Irrigation & Commercial Area Development, High Court

Buildings, Hyderabad (OUT)

*Form-NIC-OGS/WP{**RS**}*